

**Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
THE LIBRARY OF CONGRESS
Washington, D.C.**

In the Matter of

**DETERMINATION OF RATES AND TERMS
FOR DIGITAL PERFORMANCE IN SOUND
RECORDINGS AND EPHEMERAL
RECORDINGS (WEB IV)**

Docket No. 14-CRB-0001-WR

**DECLARATION OF STEVEN BLATTER IN SUPPORT OF
SIRIUS XM RADIO INC.'S REPLY IN FURTHER SUPPORT OF
IHEARTMEDIA, INC.'S MOTION TO COMPEL SOUNDEXCHANGE, INC. TO
PRODUCE DOCUMENTS IN RESPONSE TO DISCOVERY REQUESTS**

I, Steven Blatter, declare:

1. I am Senior Vice President and General Manager of Music Programming at Sirius XM Radio Inc. ("Sirius XM").
2. I respectfully submit this Declaration in support of the Sirius XM Radio Inc. and Pandora Media, Inc.'s Reply in Further Support of iHeartMedia, Inc.'s Motion to Compel SoundExchange, Inc. to Produce Documents in Response to Discovery Requests.
3. This Declaration is made based upon my personal knowledge, including my knowledge of the work done by the employees in my department whom I oversee.
4. For nearly 30 years, I have worked professionally in radio, primarily in programming, but also in marketing, promotion and online, including over ten years at Sirius XM. Throughout my career I have worked directly and extensively with record companies, their executives, their subsidiary record labels, and those labels' promotion and marketing departments.

5. At Sirius XM, I am responsible for all of Sirius XM's music programming operations and I have a significant role in other areas related to music programming, such as artist and talent relations. Through nearly three decades of interaction with them, I have directly observed the record labels' use of airplay, including airplay on Sirius XM's music channels, to increase record sales.

6. I understand that SoundExchange has claimed, and has submitted testimony from various executives from the three major parent record companies claiming, that the promotion departments of the subsidiary record labels focus solely on promotion through terrestrial radio, and not through statutorily licensed digital music services like Sirius XM.

7. In my experience, these claims are incorrect and not consistent with the actions of the labels and their employees.

8. The Sirius XM program directors responsible for programming our music channels are aggressively lobbied by members of the record label promotion departments. These record label employees vigorously try to persuade our program directors to play their artists' recordings. When their artists do get airplay on Sirius XM, those same record label promotion department employees frequently call and send follow-up emails to our program directors, thanking them for the airplay, acknowledging the increase in sales directly attributable to that airplay, and often seeking additional airplay for their music.

9. Attached hereto as **Exhibit A** are emails from the promotion departments of various record labels, including labels associated with all three major parent recording companies, in which those record label employees are either asking or thanking Sirius XM for airplay, in acknowledgment of the substantial promotional impact of that airplay.

Pursuant to 28 U.S.C. § 1746 and 37 C.F.R. § 350.4(e)(1), I hereby declare under the penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct.

Dated: November 26, 2014

By: 
STEVEN BLATTER

EXHIBIT A

[REDACTED]

[REDACTED]

From: Petruziello, Howard [mailto:Howard.Petruziello@umusic.com]
Sent: Wednesday, November 19, 2014 3:13 PM
To: Regan, Jeff
Subject: Bastille!

Hi Jeff,

We have an open lane and it looks like "Flaws" can go top 5 at the format this week. I saw the 0 at Alt Nation yesterday and momentarily panicked but un-panicked after seeing some spins today. This is the time where a man comes to another man and says, "buddy, can you lend a hand?" Anything helps, especially it not going away!

Thanks for putting up with me and I'll see you Friday.

Howard P)

Howard Petruziello
Capitol Music Group
New York, New York
212.786.8287 office
973.801.3278 cell
howard.petruziello@umusic.com

From: Lesly.Tyson@sonymusic.com [mailto:Lesly.Tyson@sonymusic.com]
Sent: Thursday, May 22, 2014 6:30 PM
To: Marks, John
Cc: John.Sigler@sonymusic.com
Subject: FW: Ben Rue - "I Can't Wait" (Radio Edit)

John—

Great talking to you today. Attached is the Ben Rue single. Would love for y'all to get it started per our conversation next week. John is on copy as I will be out of the office.

Best,
Lesly

Lesly Tyson
Vice President, Promotion
Arista Nashville
direct: 615-301-4436

From: Shearin, Jenny, Sony Music
Sent: Thursday, May 22, 2014 10:52 AM
To: Sony Music-US, Arista Promotions - Nashville
Subject: Ben Rue - "I Can't Wait" (Radio Edit)

MP3 Attached

Jenny Shearin
Arista Nashville
Specialist, National Promotions
Office: 615.301.4423
Fax: 615.301.4438
Cell: 615.521.0439

Ben Rue * Brad Paisley * Carrie Underwood * Jerrod Niemann
Kix Brooks * The Henningsens * The Swon Brothers *

[REDACTED]

[REDACTED]

[REDACTED]

From: Herring, Kevin [mailto:Kevin.Herring@wmg.com]
Sent: Thursday, July 10, 2014 4:08 PM
To: Marks, John
Subject: Big SMO

Johnny...I know I have a thousand needs and wants for airplay on SiriusXM, however we have a real sales story brewing with SMO and I think some Highway spins would goose this in the ass! The ratings for the TV show have been way better than expected, and his bookings have gone throughout the roof. Any chance you can find a spot for him? On the Horizon? Regular rotation? HEAVY? Ok, Anywhere to get a toe in the water to see... :) Let me know what you think. Pick a track...any track from the record!

Over 7,000 physical albums sold at WAL*Mart this week!

Kevin Herring
SVP, National Promotion
Warner Music Nashville

O - 615-214-1537
C - 615-308-1103

[REDACTED]

[REDACTED]

[REDACTED]

From: Dean, Katie [mailto:Katie.Dean@umusic.com]
Sent: Friday, June 27, 2014 4:59 PM
To: Marks, John
Subject: Canaan Smith | Love You Like That | Mastered

We switched singles on the Canaan after I talked to you about it last week – give this a listen and let me know thoughts.

[REDACTED]

[REDACTED]

[REDACTED]

From: Allen, Shane [mailto:Shane.Allen@umusic.com]

Sent: Monday, November 24, 2014 2:14 PM

To: Marks, John

Subject: Hello, (Johnny Global...)

What are the odds of getting (Mr. Jon Pardi / *When I've Been Drinkin'*) on your playlist prior to our holiday slumber?

In terms of single sales in our building, (Jon) has the best early story for any comparable single other than (Canaan Smith's *Love You Like That*).

(Pardi) is currently selling around 1,500 /week. (Canaan) is between 5,500 and 6,000 . . . but he is also somewhere around Top 5 on your playlist, I believe. That's awesome! Thank you!!!

(Pardi) moved up to (#47) on Billboard and Mediabase this week, with decent increases as well.)

Thanks for your time, as always!

(Shane)

From: Poore, Ron [mailto:Ron.Poore@atlanticrecords.com]
Sent: Monday, October 27, 2014 10:37 AM
To: Regan, Jeff
Subject: RE: Hey there

We would appreciate and I hope they can get benefit of the doubt. Band is worth it and song is starting to kick. thanks

Ron Poore
Senior Vice President Rock & Alternative Promotion
Atlantic Records
1290 6th Ave
New York, NY 10104
212 707 2519

From: Regan, Jeff [mailto:Jeff.Regan@siriusxm.com]
Sent: Monday, October 27, 2014 10:36 AM
To: Poore, Ron
Subject: RE: Hey there

Hey Ron

Unfortunately not an oversight, record has had high burn and low passion over the last few weeks, needed to get it out of its rotation spot in new music category. I still have it out in research and let you know if anything changes, there is massive fatigue on band at this point.

I will work to make sure it doesn't drop off completely.

Thanks

From: Poore, Ron [mailto:Ron.Poore@atlanticrecords.com]
Sent: Monday, October 27, 2014 10:29 AM
To: Regan, Jeff
Subject: Hey there

Jeff, I noticed that Fitz "Fools Gold" hasn't been spun in days. I am hoping that is an oversight and not a drop.

We are killing it right now. This record is really coming thru. We just went TOP 20 this week moving 22 to 18 and are now at #17, #2 testing in Denver at KTCL and panel closing out.

I'm hoping that you can get this back on. Fitz is coming off of 2 big hits for Alt Nation. I'm hoping that you can hang in with this one too. It's a crucial time for the record.

I would really appreciate your help
RP

Ron Poore
Senior Vice President Rock & Alternative Promotion
Atlantic Records
1290 6th Ave
New York, NY 10104
212 707 2519

[REDACTED]

[REDACTED]

[REDACTED]

From: John.Sigler@sonymusic.com [mailto:John.Sigler@sonymusic.com]
Sent: Tuesday, June 03, 2014 7:00 PM
To: Marks, John
Cc: Lesly.Tyson@sonymusic.com
Subject: --HIGHWAY--

John , Great to see those JERROD spins---downloads going back up, too!

Do you know when that BEN RUE 8 spin test might begin ? KKGO in los angeles just added him on Monday.....

Thanks, John

John Sigler Arista Nashville Director , National Promotion 615-301-4416 office 615-484-9140 cell

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Keith.Gale@sonymusic.com [mailto:Keith.Gale@sonymusic.com]

Sent: Thursday, November 20, 2014 7:14 PM

To: Marks, John

Subject: JD "Save Your Breath" MP3

New Josh Dorr single. What do you think my friend?

From: Jessie.Maldonado@rcarecords.com [<mailto:Jessie.Maldonado@rcarecords.com>]
Sent: Friday, November 21, 2014 1:12 PM
To: Kelly, Kid; Pifferrer, Michael
Cc: Adrian.Moreira@rcarecords.com
Subject: [Kelly Clarkson](#)

Happy Friday!

We are excited to be setting up the upcoming single for [Kelly Clarkson!](#)

[Adrian](#) will be in your office on Monday seeing Jim and Heidi and 10:15a.

He'd love to swing by your office and play it for you as well, if you are available.

Please let us know.

Thanks,
[Jessie](#)

[JESSIE MALDONADO | vice president, promotion operations](#)
[rca records | 550 madison avenue | new york ny 10022](#)
[p 212 833 6559 | f 212 833 6557](#)
[e jessie.maldonado@rcarecords.com](mailto:jessie.maldonado@rcarecords.com)

[Follow us? http://twitter.com/rcapromo](http://twitter.com/rcapromo)

E

[REDACTED]

From: Cerrito, Ron [mailto:Ron.Cerrito@umusic.com]
Sent: Monday, November 03, 2014 6:58 PM
To: Regan, Jeff
Subject: Misterwives...

I know this track has haunted you... as have I...

But it is exploding when exposed to the Alternative audience.

Philadelphia it outsold Alt J, Bleachers and tied Bastille with 3 spikes on WRFF. (352 singles)

Any chance you can put this in and let it tell us the story.

I have no doubt it will talk back to us quickly.

Ron Cerrito
SVP Promotion / Rock Formats
REPUBLIC Recordings
2220 Colorado Blvd.
Santa Monica, CA 90404
O 310-865-6565
M 310-850-3131

Ron.Cerrito@umusic.com
Aim: roncerrito1

From: Perl, David [mailto:David.Perl@disney.com]

Sent: Thursday, September 18, 2014 12:58 PM

To: Regan, Jeff

Cc: Deal, Buddy

Subject: RE: Mr. Regan

You are a statistician & scientist to the MAX! Love it ...

That said I'm still going to try to appeal to your *emotional & giving* sides... Ha!

Sorry that's part of what I do ☺

I hear ya - Please do what you can!!!

From: Regan, Jeff [mailto:Jeff.Regan@siriusxm.com]

Sent: Thursday, September 18, 2014 12:53 PM

To: Perl, David

Subject: RE: Mr. Regan

Hey David

Thanks all is well on this side!

Yeah, been battling some stagnant research on Tongues over the last two+ weeks, the passion is dipping down and burn is creeping up, that is what happens when you get to the dance party early. I have been trying to keep it in current rotation and not move to recurrent yet, I am throwing what I have at it, without increasing overall fatigue on the artist themselves, that would come back to haunt us when we present follow up singles.

From: Billy Burrs [mailto:billy@threehundred.biz]
Sent: Wednesday, March 19, 2014 1:45 PM
To: Regan, Jeff
Subject: Re: Panama "Always"

Not to be a bitch. But will Panama play today?

On Mar 18, 2014, at 12:16 PM, "Regan, Jeff" <Jeff.Regan@siriusxm.com> wrote:

Do you have a shorter version of "Destroyer"?

From: Billy Burrs [mailto:billy@threehundred.biz]
Sent: Tuesday, March 18, 2014 12:14 PM
To: Regan, Jeff
Subject: Re: Panama "Always"

Love you bro...they were AWESOME in Austin!! I'm gonna go for it.....

From: "Regan, Jeff" <Jeff.Regan@siriusxm.com>
Date: Tuesday, March 18, 2014 at 12:08 PM
To: William Burrs <billy@threehundred.biz>
Subject: RE: Panama "Always"

I actually had it scheduled a few time over the weekend and had to blow it out.
I think the next/first play is scheduled for tomorrow at some point.

From: Billy Burrs [mailto:billy@threehundred.biz]
Sent: Tuesday, March 18, 2014 12:07 PM
To: Regan, Jeff
Subject: Panama "Always"

Hey bro-

Maybe the first 300 artist on ALT N?

I think we gonna go for it.....

(BB)

From: db@rcarecords.com [mailto:db@rcarecords.com]

Sent: Tuesday, November 04, 2014 4:16 PM

To: Regan, Jeff

Subject: plz dont bail on Bleachers

Dennis Blair

RCA Records)

Senior Vice President Promotion

550 Madison Ave - 11th floor)

New York, NY 10022)

db@rcarecords.com)

PH: 212-833-5534)

C: 310-717-5246)

IM:dblair42)

[REDACTED]

-----Original Message-----

From: Goldklang, Rob [mailto:Rob.Goldklang@wbr.com]
Sent: Tuesday, September 23, 2014 10:47 AM
To: Regan, Jeff
Subject: Quick question

Hey there Jeff

Thanks for the rotation on new politics

Just checking in to see if you're reporting it today.

I know were getting the spins at faction as well. You know me. I like having multiple homes!
Hope your well!!

Sent from my iPhone

From: Flohr, Jesse [Jesse.Flohr@umusic.com]
Sent: Thursday, October 30, 2014 2:44 PM
To: Jessica Besack
Subject: U2

Hey Jess, just wanted to follow up to see how U2 looked in the latest rsch and if they can get to power for you?

Thanks!

jesse flohr | interscope geffen a&m | 720.988.9558 cell

sent from my iPhone

From: Lisa.Sonkin@sonymusic.com
Sent: Tuesday, May 27, 2014 12:17 PM
To: Besack, Jessica
Subject: hi!

Hope you had a wonderful weekend!

Please let me know if you have any plans to spin the Mayer track.

Thank you.

(L)

From: Lisa.Sonkin@sonymusic.com
Sent: Monday, April 28, 2014 2:35 PM
To: Jessica.Besack@siriusxm.com
Subject: RE: hi there

No – I'm worried about the add on From Eden and how it will impact Church. We aren't going for From Eden until this summer when the album gets announced. We're on a mission to break Church and every spin counts. We are on the verge of Top 10. A hit anywhere on spins will have a HUGE impact on the record. Please let me know what's up. Thanks so much.

From: Besack, Jessica [mailto:Jessica.Besack@siriusxm.com]
Sent: Monday, April 28, 2014 2:31 PM
To: Sonkin, Lisa, Columbia Records
Subject: RE: hi there

Oh, you're probably worried about spins because we're playing the Sirius XM version of the song as well – would you want me to send you an mp3 of it so you can send it to the reporting sites?

From: Lisa.Sonkin@sonymusic.com [mailto:Lisa.Sonkin@sonymusic.com]
Sent: Monday, April 28, 2014 2:11 PM
To: Besack, Jessica
Subject: hi there

Let me know when you can catch up. Concerned about Hozier Thanks.

From: Tombrink, Trina [Trina.Tombrink@umusic.com]
Sent: Monday, March 24, 2014 11:59 AM
To: Besack, Jessica
Subject: Hi

Hey Jess,

FYI — Birds Of Tokyo is Top 20 at AAA now... WXRT put it into test rotation, KGSR Austin added it today, WRNR Baltimore moved it to Sub-Power and so on.

Also this week: Singles Sales +25% ... Audience reach +10%

I think the last record of mine that you added was Lanterns back in December... I've been a patient woman ☺

Thanks!

Trina Tombrink
VP, Promotion & Artist Development
Republic Records
O: 212-841-8228
C: 917-853-2802

The logo for Republic Records, featuring the word "REPUBLIC" in a stylized font above the word "RECORDS".

From: Evans, James [James.Evans@umusic.com]
Sent: Thursday, January 09, 2014 12:32 PM
To: Besack, Jessica
Subject: On Top of the World by Imagine Dragons

As we headed into the break this seemed relatively imminent .. Might it get into the game on Monday ?

28-19* at alternative radio this week and doing well with some of the more male leaning Triple A's like KINK, WTTS etc.. In the teens for me too and the album has surged back into the top 10 in national sales... Arena tour selling out.. Happy New Year... Let's talk soon..

James

p.s. Look for the new Aloe Blacc track (selling huge without radio play/servicing) later today in a play MPE blast

From: Evans, James [James.Evans@umusic.com]
Sent: Thursday, August 01, 2013 12:15 PM
To: Besack, Jessica
Subject: various

How was the Frank show and his visit to your office ?

Is Phillip Phillips's "Where We Came From" going to get in the game this week...Hoping so

From: Evans, James [James.Evans@umusic.com]
Sent: Thursday, June 13, 2013 7:11 PM
To: Besack, Jessica
Subject: able to finesse [redacted] into the add column this week ??

From: Evans, James [James.Evans@umusic.com]
Sent: Thursday, January 17, 2013 11:14 AM
To: Besack, Jessica
Subject: any update

On Imagine Dragons ("Demons") getting into the game and advancing forward on Michael and Churchill? Some Dragons info below....Enjoy Jessie she's on at 10pm tonight. Hope you get a chance to meet the other Jesse (our rep)
=====

. . Besides the obvious (coming off an enormous first track, huge sales of singles (2+ million), albums (gold) and tickets (sold out theater tour coming soon) here is another interesting factoid about this song:

Nielsen tracks the top 20 songs being streamed that aren't on the radio yet (less than 200 spins all formats combined).. This song is #1 with 382,000 streams last week ! The only other bands that have songs on this list that the format can/is playing = Mumford, Lumineers and Lana Del Rey... Percolating demand from bands with fan bases ! Love to hear your thoughts..

Cheers

James

From: Flohr, Jesse [Jesse.Flohr@umusic.com]
Sent: Thursday, June 05, 2014 11:25 AM
To: Besack, Jessica
Subject: Lana

Hey!

Hope you're well. Sorry to send a spin police email, but noticed Lana dipped 6-3 yesterday and just wanted to see if everything was ok?

Thanks!

jesse flohr | interscope geffen a&m | 212.331.2035 office | 720.988.9558 cell | 212.656.1064 efax
1755 broadway, 5th floor, new york, new york 10019 | jesse.flohr@umusic.com
check out our latest music [here](#) | follow interscope promo on facebook, twitter & instagram

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In the Matter of

DETERMINATION OF RATES AND TERMS
FOR DIGITAL PERFORMANCE IN SOUND
RECORDINGS AND EPHEMERAL
RECORDINGS (WEB IV)

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) Docket No. 14-CRB-0001-WR
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CERTIFICATE OF SERVICE

I, Jackson D. Toof, hereby certify that a copy of the foregoing RESTRICTED Sirius XM Radio Inc.'s Reply in Further Support of iHeartMedia, Inc's Motion to Compel SoundExchange, Inc. to Produce Documents in Response to Discovery Requests, Declaration of Steven Blatter, Declaration of Jackson Toof, and other supporting documents has been served electronically by agreement of the parties on this 28th day of November, 2014, with hard copy sent by first class mail upon the following parties:

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Fax: 415-318-1300

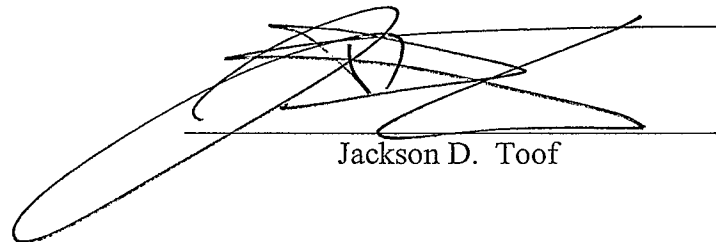
Counsel for National Public Radio, Inc.

<p>Jeffrey J. Jarmuth Law Offices of Jeffrey J. Jarmuth 34 E. Elm Street Chicago, IL 60611-1016 jeff.jarmuth@jarmuthlawoffices.com Phone: 312-335-9933 Fax: 312-822-1010</p> <p><i>Counsel for AccuRadio, LLC</i></p>	<p>David Golden Constantine Cannon LLP 1001 Pennsylvania Avenue, NW Suite 1300 North Washington, DC 20004 dgolden@constantinecannon.com Tel: 202-204-3500 Fax: 202-204-3501</p> <p><i>Counsel for College Broadcasters Inc.</i></p>
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Counsel for SoundExchange, Inc.



Jackson D. Toof

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In the Matter of

DETERMINATION OF RATES AND TERMS
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RECORDINGS AND EPHEMERAL
RECORDINGS (WEB IV)

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) Docket No. 14-CRB-0001-WR
)
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DECLARATION AND CERTIFICATION OF JACKSON D. TOOF
ON BEHALF OF SIRIUS XM RADIO INC.

I, JACKSON D. TOOF, declare:

1. I am counsel for Sirius XM Radio Inc. (“Sirius XM” or the “Company”) in the above-captioned proceeding. I respectfully submit this declaration and certification pursuant to Rule 350.4(e)(1) of the Copyright Royalty Judges Rules and Procedures, 37 C.F.R. § 350.4(e)(1), and the terms of the Protective Order issued October 10, 2014 (the “Protective Order”) in support of Sirius XM’s Reply in Further Support of IHeartMedia, Inc.’s Motion to Compel SoundExchange, Inc. to Produce Documents in Response to Discovery Requests (“Sirius XM’s Reply”). I am authorized by Sirius XM to submit this Declaration on Sirius XM’s behalf.

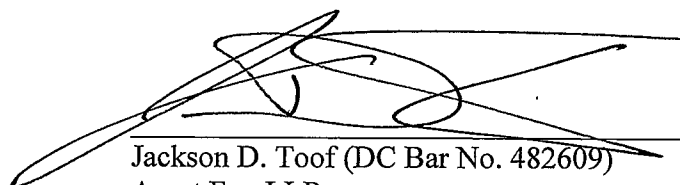
2. I submit this declaration describing the materials Sirius XM has designated “RESTRICTED” and the basis for those designations, pursuant to Section III and in compliance with Section IV.A of the Protective Order. I have determined to the best of my knowledge, information and belief that the materials described below, which are being produced to outside counsel of record in this proceeding, contain confidential information as defined under the Protective Order.

3. The confidential information properly designated as “RESTRICTED” is found in the exhibits to Sirius XM’s Reply, and comprises or relates to identifying information of record label promoters when sending e-mails to various Sirius XM program directors. Specifically, the names, titles, phone numbers, e-mails, and other identifying information for each of the record label promoters has been restricted, as well as the names of artists and recording titles referenced in the e-mails as such information can be used to identify record label promoters (collectively, “Identifying Information”). Sirius XM designates the Identifying Information as RESTRICTED because it is our understanding that in prior proceedings, some promotions employees at various record labels have been reprimanded after similar correspondence was put into evidence. As a result, Sirius XM seeks to protect those record label employees from retaliation.

4. Publicly disclosing the Identifying Information would no doubt interfere with Sirius XM’s ability to obtain like information in the future.

Pursuant to 28 U.S.C. § 1746 and 37 C.F.R. § 350.4(e)(1), I hereby declare under the penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct.

Dated: November 28, 2014
Washington, DC



Jackson D. Toof (DC Bar No. 482609)
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1717 K Street, NW
Washington, DC 20006-5344
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